SINGLE BENCH

(1) (3)

C.S. 1001 -

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.PNO.1197/2006

PETITIONER: Gulab Chandra Pandey, son of Late Shri Hradaynarayan Pandey, aged 76 years, R/o. Juna Bilaspur, District Bilaspur (C.G.)

P.R. No. 1255/06
Presented by Dilip Dubey
Dated 7/3/06

VERSUS

RESPONDENTS:

1. State of Chhattisgarh Through Secretary Revenue, Government of Chhattisgarh, D.K. Bhavan, Raipur
2. Municipal Corporation, Bilaspur Through Commissioner, Municipal Council, Bilaspur
3. Tehsildar, Bilaspur
4. Sub Divisional Officer, Bilaspur
5. Collector, Bilaspur

RECEIVED COPY
7/3/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS / CERTIORARI ETC OR DIRECTION (S) / ORDER(S) IN THE LIKE NATURE ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(125)

आदेश पत्रक

W.P.No. 1197/2006
मामला क्रमांक ..... सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	08.03.2006 Dr. N.K. Shukla, Sr. Advocate with Shri Shailendra Shukla, counsel for the petitioner. Shri Yashwant Singh, Govt. Advocate for the State/respondents No. 1, 3, 4 & 5. Shri A.S. Kachhuwaha, Advocate appears for the Municipal Corporation, Bilaspur/respondent No. 2 on Caveat petition No. 71/2006. Heard. Learned counsel for the petitioner submits that the land bearing Khasra No. 561/2 and 561/4 are subject matter of the notice issued by the Tehsildar, Bilaspur under Section 248 of C.G. Land Revenue Code, 1959. His submission is that so far as Khasra No. 561/2 is concerned, the petitioner is the owner of the aforesaid plot and is holding title of the same. His further submission is that this plot is not a *Nazul* plot or revenue plot (Govt. land), therefore, a proceeding under Section 248 of the Land Revenue Code would be *non est* and nullity in eye of law. Learned counsel submits that in the garb of this notice, Tehsildar and the other authorities of the District Administration are bent upon to demolition of house of the petitioner which is standing on the part of Khasra No. 561/2. His submission is that some protective order may be passed in favour of the petitioner and the house of the petitioner standing on the aforesaid Khasra number be protected at least till the period, the petitioner is evicted in due course of law. He further submits that	

देखिये

(126)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 1197/2006 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the litigation in relation to this plot has went upto High Court and ultimately the contents of the various orders passed in relation to this Khasra number would show that this is not a government land, therefore, at any rate the proceeding under Section 248 of the Land Revenue Code cannot be drawn.

On the other hand, learned counsel for the State submits that the disputed questions of facts have been raised by the petitioner which ultimately culminates into a civil dispute which cannot be the subject matter of the writ petition and no appropriate orders can be passed in the writ petition filed by the petitioner.

The submission of learned counsel for the Municipal Corporation is that the land is a government land and the Tehsildar is having jurisdiction under Section 248 of the Land Revenue Code to draw the proceedings in the above nature and the writ petition should be dismissed.

After hearing the learned counsel for the parties, and after perusing the records of the writ petition, I am not inclined to entertain this writ petition by calling upon to file reply by the State counsel and also by the Municipal Corporation on question of nature of land which according to petitioner is not a Govt. law.

Admittedly, at this stage only a notice under Section 248 of the Land Revenue Code has been issued to the petitioner and the petitioner is having full opportunity to appear before the concerned

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(127)

आदेश पत्रक

मामला क्रमांक W.P. No. 1197/2006. सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Tehsildar and to file his claim in relation to his ownership and to show that the land is not a government land.

The Tehsildar after due enquiry, if comes to the conclusion that the land is not a government land then ultimately he shall pass suitable final orders under Section 248 of the Land Revenue Code on the basis of material available before him.

So far as apprehension of demolition is concerned, no such documents have been filed before me to show any such action proposed to be taken against the petitioner. However, it is expected and observed that when a proceeding has already been drawn by the authority under the statutory provisions, the statutory authority as well as other concerned government authorities including the respondents would respect the provisions of law and would certainly wait for the decision which shall ultimately be rendered by the Tehsildar after due enquiry under Section 248 of the Land Revenue Code and shall not step into forceful demolition by a process unknown to law.

With the aforesaid observation, the petition stands disposed of at the motion stage with liberty to the petitioner to appear before the concerned Tehsildar and raise his objections which shall be decided in accordance with law under Section 248 of the Land Revenue Code.

The petition stands summarily disposed of. The Caveat petition No. 71/2006 stands discharged.

Sd/-
Sunil Kumar Sinha
Judge

Vatti

[पीछे देखिये